Republic of the Philippines
Department of Finance
BUREAU OF INTERNAL REVENUE
National Office
Quezon City

Bringing in Revenues for Nation-building

Revenue Regulations No. 2-98, as amended
BIR Ruling No. DA-131-2001
RA No. 7227, as amended

OT– 048 . 2025

APR 04 2025

BERTHAPHIL, INC.
Berthaphil Compound, Jose Abad Santos Ave.,
Clark Freeport Zone, Pampanga

Attention: **Grace D. Montecillo**
Corporate Treasurer

Gentlemen:

This refers to your letter requesting for the renewal/revalidation of the ruling issued to Berthaphil, Inc. on July 26, 2001.

It is represented that Berthaphil, Inc. (Berthaphil) is a domestic market enterprise duly registered with the Clark Freeport Zone (CFZ) engaged in industrial development within the CFZ. It constructs buildings and leases them out to locators engaged in manufacturing, warehousing, and Business Process Outsourcing activities. Berthaphil is enjoying a preferential tax rate of 5% in lieu of all national and local taxes under Republic Act (RA) No. 7227, as amended by RA No. 9400.

On July 26, 2001, the Bureau of Internal Revenue (BIR) issued BIR Ruling DA-131-2001, wherein the BIR held that Berthaphil's lessees are not required to withhold 5% creditable withholding tax on rental payments for the lease of Berthaphil's property. At present, however, Berthaphil's lessees refuse to recognize the previous ruling and are requesting for an updated one. The said lessees are CFZ locators who are also enjoying a preferential tax rate of 5%.

In light of the foregoing, Berthaphil now requests for the renewal/revalidation of its exemption from the 5% creditable withholding tax on rental payments for the lease of its properties.

In reply, please be informed of Section 2.57.5 (B)(2) of Revenue Regulations No. 2-98, as amended, to wit:

> *"Sec. 2.57.5. Exemption from Withholding. – The withholding of creditable withholding tax prescribed in these Regulations shall not apply to income payments made to the following:*
>
> *(A) xxx xxx xxx*
>
> *(B) Persons enjoying exemption from payment of income taxes pursuant to the provisions of any law, general or special, such as but not limited to the following:*
>
> *(1) xxx xxx xxx*

OT- 048 . 2025
APR 04 2025

*(2) Corporations duly registered with the Board of Investments, Philippine Export Processing Zones and Subic Bay Metropolitan Authority enjoying exemption from the income tax pursuant to E.O. 226, as amended, RA 7916 and the Omnibus Investment Code of 1987 and **R.A. 7227, as amended**, respectively;" (Emphasis and underscoring supplied)*

However, please note that under the National Internal Revenue Code of 1997, as amended by the CREATE Act[1], the preferential tax rate of 5% on gross income earned extends only to registered export enterprises.[2] Nevertheless, domestic market enterprises availing of the 5% preferential tax rate prior to the effectivity of the CREATE Act are allowed to continue availing of such preferential tax rate for a period of ten (10) years.

Section 311 (C) of the Tax Code, as amended by the CREATE Act, provides:

*"**Sec. 311. Investments Prior to the Effectivity of This Act.** – Registered business enterprises with incentives granted prior to the effectivity of this Act shall be subject to the following rules:*

xxx xxx xxx

(C) Registered business enterprises currently availing of the five percent (5%) tax on gross income earned granted prior to the effectivity of this Act shall be allowed to continue availing the said tax incentive at the rate of five percent (5%) for ten (10) years."

In view of the foregoing, as a CFZ registered domestic market enterprise, Berthaphil is allowed to continue availing the preferential tax rate of 5%, in lieu of all local and national internal revenue taxes, for a period not exceeding ten (10) years from the effectivity of the CREATE Act. Thus, it is exempt from paying the regular income tax, and its lessees are not required to withhold the 5% creditable withholding tax on rental payments for the lease of Berthaphil's properties.

This ruling is issued on the basis of the facts as represented. However, if upon investigation, it will be disclosed that the actual facts are different, then this ruling shall be without force and effect insofar as the herein parties are concerned.

Very truly yours,

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue

K1-

[1] Republic Act No. 11534, otherwise known as the "Corporate Recovery and Tax Incentives for Enterprises Act" or "CREATE."
[2] Section 294 (B) of the National Internal Revenue Code of 1997, as amended by the CREATE Act.